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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,490	04/08/2004	Bill Teinert	P-203188.1(uti)	7282
7590	02/24/2005			EXAMINER
Cline H. White Loeffler Tuggey Pauerstein Rosenthal LLP 755 East Mulberry Suite 200 San Antonio, TX 78212				PRICE, RICHARD THOMAS JR
			ART UNIT	PAPER NUMBER
			3643	
				DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/820,490	TEINERT, BILL	
	Examiner Thomas Price	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 December 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 10-42 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 10-42 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

The replacement sheet for Figure 1 has been received and approved for entry.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Rtp. Claims 10-42 are rejected under 35 U.S.C. 102(b) as being anticipated by

Garwick '633.

Garwick teaches a gambrel which is structurally similar to the Applicant's claimed gambrel. Garwick teaches a central bar D slidably attached to a upper cross member B. The upper cross member extends outwardly from said central bar. A lower cross member (C) is attached to a second end of said central bar. A prong arm (A) is pivotally attached to said prong arm pivot (unnumbered). The prong arm is slidably attached to said lower cross member at (c). A lower cross member collar (c) is attached to each end of the lower cross member. In regards to claim 3, a support ring E or hook-like device is attached to a first end of said central bar. Regarding claim 4, a prong (a) is attached to an end of said prong arm, opposite of said prong arm pivot. As for claim 5, as seen in Figure 2, the prong is attached said prong arm at an angle of between 20 and 82 degree, relative to said prong arm. Regarding claim 9, the prong has a tapered end opposite said prong arm. In regards to claim 17, said upper cross member is comprised of an upper cross member first plate (unnumbered) and an upper cross

member second plate. The upper cross member first plate is attached to an end of said prong arm pivot and said upper cross second plate is attached to the opposite end of said prong arm pivot. A upper cross member cylinder (d) is attached to said upper cross member first plate and to said upper cross member second plate. The upper cross member cylinder is generally tubular in shape and includes an inner diameter sized to slidably receive said central bar. As for claim 18, the lower cross ember is further comprised of a lower cross member collar (c) is attached to a second end of said lower cross member and said prong arm (A) is slidably attached to said lower cross member collar. Regarding claim 33, the curved bent portion or eyelet of Garwick is open or not closed.

Response to Applicant's Arguments

With regard to claim 10, the Examiner greatly appreciates the numerous listings of definitions of words that the Applicant would like to rely on for patentable distinction. However, the Applicant proves the Examiner's point, in that, the first definition of a hook is a curved or bent device for holding. This broad meaning of word "hook" accurately includes or reads on the eyelet of Garwick reference. Further, it does not appear that the Applicant stressed the invention of a hook as being critical to the invention. On the contrary, prior to the citation of the reference to Garwick, the specification contained no discussion as to the criticality of the hook and its patentable distinction over other similar devices for holding or hanging. In fact, the Applicant's specification proves that the eyelet of Garwick is equivalent to the purported hook of the Applicant. For example, the specification states the following "a support hook (12)

operable to hang the gambrel (10) by a chain, rope, cable, a stationary object, or other supporting means (not shown)". Certainly, the curved holding device of Garwick is operably connectable with a chain, rope, cable, etc... Other than that, there is no criticality in the specification for the Applicant to rely on for patentable distinction, and certainly none for the Examiner. In regard to Applicant's additional arguments concerning claim 12, that the reference to Garwick does not disclose nor claim a prong with a tapered end. Wester defines a prong 1. fork 2. a tine of a fork 3. a slender pointed or projecting part, etc.... 4. something resembling a prong. It is easily to see in Figure 1 that element a resembles a prong, or is a slender projecting part or a slender pointed part. As to the argument concerning the angle of attachment of the prong arm. Considering the prong is integrally attached to the prong arm, and the fact that it includes a circular portion that scribes through many angles relative to the prong arm, the Examiner, as such, believes that the angle can be between 20 degrees and 85 degrees, relative to the prong arm. Here again, what is critical about these angles, and where in the specification is this criticality discussed. Where in the drawings is the exact point of attachment between the prong and prong arm. With regard to the arguments concerning claim 17, the claimed upper cross member having a upper cross member first plate and an upper cross member second plate broad read on the upper cross member of Garwick if the Applicant considers that the upper cross member has a given thickness, and each side of the upper cross member can be defined as a first and second plate. As such, the pivot(unnumbered) extends through a first plate and is

operably connected to the upper cross member somewhere between the first and second plates, thus integrally connected to the second plate.

Response to Amendment

Applicant's arguments filed 12-01-2004 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Prior Art of Record

The prior art of record show similarly constructed gambrel devices that teach pivotally attached and extending prong arms for supporting an animal carcass.

Conclusion

Summary: Claims 1-32 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 703-308-2694. The examiner can normally be reached on Monday through Friday from 8:30a.m. to 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Thomas Price
Primary Examiner GAU: 3643

rtp